IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINETEENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

-

WRIT PETITION NO : 13183 of 2004

Between:

Razia Rehana, W/o.Mir Himayath Ali,
R/o.383 SRT Colony, Yakutpura, Hyderabad.

..... PETITIONER

AND

1 The Commissioner of Police, Hyderabad City Basheer Bagh, Hyd.
2 The Deputy Commissioner of Police, South Zone, Purani Haveli,

Hyderabad.
3 The Assistant Commissioner of Police, Mir Chowk Divn. Mir Chowk,

Hyderabad.
4 The Inspector of Police Rain Bazar, Hyderabad.
5 The Inspector of Police, Task Force, south zone, purani Haveli, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue the writ of Mandamus or any other appropriate writ, proceedings etc., declaring the action of the Respondents in harassing the petitioner and family members of the petitioner is illegal, arbitrary and without any authority, and jurisdiction and consequently directing the respondents not to interfere in the personal life of the family of this petitioner of the premises bearing No.383 SRT Colony, Yakutpura Hyderabad in the interest of justice.

Counsel for the Petitioner: MR.M.BASITH ALI YAVAR

Counsel for the Respondents: GP FOR HOME

The Court made the following:

ORDER:

The petitioner seeks a writ of Mandamus declaring the alleged action of the respondents in harassing her and her family members, as arbitrary and illegal.

In the affidavit filed in support of the writ petition, it is stated that on 17.07.2004, respondents 4 and 5 along with the Police force, raided the house of the petitioner between 11.00 am and 12.00 noon. By that time, no male members were present in her family. It is alleged that the Police authorities broke open the lock of the almirah and damaged the articles, inspite of the objections raised by the petitioner. It is also alleged that respondents 4 and 5 have taken away the motorcycle belonging to the brother-in-law of the petitioner. It is alleged that respondents 4 and 5 have resorted to the said acts at the instance of some persons, who are enimically disposed towards the petitioner and her family members. In the circumstances, this writ petition is filed seeking a declaration that the said action of respondents 4 and 5 is arbitrary and illegal.

In the counter affidavit filed by the Inspector of Police, Rein Bazar Police Station, Hyderabad, on behalf of the respondents, all the allegations made by the petitioner have been denied. It is stated that on 17.07.2004 at about 11.30 am, the fourth respondent consisting of one S.I. and two Police Constables, while on patrolling, found that two

persons namely, Basharath and Md.Yakub, were accepting Satta betting amount at SRT colony, Hyderabad, infront of the house of the petitioner and accordingly, necessary action has been taken by the respondents Police by registering a Petty Case No.187 of 2004 under Section 9 of A.P.Gaming Act against the above said accused. Subsequently, one of them (A2) was convicted and fine of Rs.100/- was imposed. So far as the first accused is concerned, the said case is still pending vide S.T.C.No.319 of 2004 on the file of the Special VI Metropolitan Court, Hyderabad. The allegations of the petitioner that on 17.07.2004, respondents 4 and 5 entered into her house and broke open the lock of the almirah and also have taken away the motor cycle belonging to the brother-in-law of the petitioner, are categorically denied and it is stated that the petitioner appears to have filed this writ petition apprehending that the Police may take action against the inmates of the house of the petitioner since the offence in Petty Case No.187 of 2004 took place infront of the house of the petitioner.

The petitioner filed a reply affidavit disputing the stand taken by the respondents. It is asserted that on 17.07.2004, respondents 4 and 5 have actually entered into the house of the petitioner forcibly and damaged the articles and they have also taken away the motorcycle belonging to the brother-in-law of the petitioner. However, the fact remains that the petitioner failed to make any complaint before any one of the officials about the alleged acts of respondents 4 and 5. No other material is placed before this Court to substantiate the allegations made by the petitioner. Since the matter involves disputed questions of fact and requires decision on investigation of evidence in support of rival claims, no relief can be granted in exercise of jurisdiction under Article 226 of the Constitution of India.

In the circumstances, I deem it appropriate to dispose of the writ petition granting leave and liberty to the petitioner to take appropriate proceedings as available under law with regard to the alleged incident that took place on 17.07.2004.

Accordingly, the writ petition is disposed of. No costs.

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19.08.2004

VGB

To

1 The Commissioner of Police, Hyderabad City Basheer Bagh, Hyd.
2 The Deputy Commissioner of Police, South Zone, Purani Haveli,

Hyderabad.
3 The Assistant Commissioner of Police, Mir Chowk Divn. Mir Chowk,

Hyderabad.
4 The Inspector of Police Rain Bazar, Hyderabad.
5 The Inspector of Police, Task Force, south zone, purani Haveli, Hyderabad.

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